



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 07/18/00
AGENDA ITEM 8
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Vesting Tentative Map Tract 7191, Use Permit, Site Plan Review & Variance 99-130-16, and a Request to Vacate a Portion of Sutro Street – Denova Homes, Inc. (Applicant); Zaballos Family Trust, Anthony L. & Melba Farcich Trust, Et Al (Owners) – Request to Develop 161 Townhomes and Variances and Waiver to Reduce Side Yard and Rear Yard Setbacks for 11 Townhomes and to Reduce the Garage Width - The Property is Located on the East Side of Grand Street, the South Side of D Street and the West Side of Sutro - The Property Lies Within the CC-C (Central City-Commercial) and CC-R (Central City-Residential) Sub-Districts

RECOMMENDATION:

The Planning Commission (5: 1) and staff recommend that the City Council subject to the attached findings and Conditions of Approval:

1. Approve the revised Mitigated Negative Declaration;
2. Approve Vesting Tentative Map Tract 7191;
3. Approve the Use Permit and Site Plan Review application;
4. Approve the Variance application and Waiver; and
5. Approve the Resolution Summarily Vacating a Portion of Sutro Street.

DISCUSSION:

The Core Area Plan, a component of the Downtown Hayward Design Plan identified this site as a primary target for new housing development with a density up to 50 units per acre. The Plan requires that the primary entries to the units be from the public street or from a private street, which is developed like a public street.

DeNova Homes proposes a project that takes advantage of the site's proximity to the BART station and the downtown, while creating a community that would serve as a transition between the older residential neighborhood to the south and the newer multi-family project north of the site and across D Street (Pinnacle City Centre Rental Condominiums). The challenges to develop the site were the irregularly shaped property and the abutting railroad and BART tracks.

The project design is a continuance of the contemporary adaptation of the row houses developed within the Atherton Place project and the proposed City Walk project soon to be developed next to City Hall. The proposed townhomes along the outer street perimeter are oriented so that they face the street and have individual raised porches. The project will be open without security gates. An internal pedestrian path will promote a sense of neighborhood and interaction between adjoining units. Pedestrian access to BART and the downtown area is provided through two gated trellis entries along the D Street frontage. Vehicular access to the site will be along the Grand and Sutro Street frontages.

A total of 161 townhomes is proposed at a net density of 34.9 units per acre (24.1 units per gross density). Each of the thirty buildings houses a combination of four floor plans ranging in size from 1,075 to 1,640 square feet. The homes will offer 2 to 3 bedrooms; 2½ to 3 bathrooms, and all but 13 of the units will have a 2-car garage. The number of units within a building range widely from two to nine.

While the project floor plans are very similar to the Atherton Place townhomes, the applicant has proposed different building elevations so that the projects will not appear the same by utilizing horizontal siding at the base of the buildings with wood shingles above instead of the stucco siding used in Atherton Place. These materials will relate well to the overall design, which incorporates some architectural elements found in the traditional Craftsman style. The project features include raised front entry porches with wood railings, planters and trellises. Facades will be articulated by use of pop-out sections, use of heavy post and beams and some tapered columns. Overall, the buildings are attractive and will fit into the existing neighborhood.

Consistent with the City's policy to encourage home ownership, DeNova Homes has submitted a vesting tentative map application so that each unit can be sold separately.

The applicant has requested variances or waivers to allow minor encroachment into the side or rear yard setbacks in order to improve the project by providing additional landscaping area at the front of the buildings and to lessen the width of one of the two garage parking spaces within each unit. Both staff and the Planning Commission found these to be minor and recommend support of these slight modifications of code requirements.

In the downtown core area at least 100 square feet of open space, 30 of which is to be group open space, must be provided for each residence. Two large (approximately 53' x 120' and 40' x 120') landscaped areas are proposed in the central part of the site. Details of these areas are yet to be developed, but the area is shown to include a small project lounge (meeting room) an indoor spa, tot lot, and possible small plaza or courtyard with barbecue and grass areas and seating areas. Private open space will be provided for each unit in the form of either ground level patio yards at the unit entrance (Unit D), raised entry porches (Units A and C) and private balconies on the second level of the B units. The project provides a total of 20,676 square feet of usable open space where 16,100 square feet is required. Approximately 11,800 square feet is provided within the group open space areas. Noise levels in all open space areas, including

those adjacent to the railroad and BART tracks, will not exceed the maximum 65 dB as stated in the City's Noise Element.

The project exceeds the minimum parking requirements of 1.5 parking spaces per unit. A total of 2.17 spaces is provided. In addition to two garage spaces for almost all the units, 28 visitor spaces will be provided on site.

The applicant has requested the vacation of a portion of Sutro Street. The street terminates in a cul-de-sac near D Street and is bordered on both sides by the project area. Staff is recommending summary vacation of that portion of Sutro Street that dead ends in the project and provides no street frontage to any other private properties.

A mitigated negative declaration has been prepared for the project. A traffic analysis for the project shows that all six of the study intersections for the project would continue to operate at LOS C or better under both Existing + Project and under Existing + Project + Approved/Planned Project Conditions during the AM and PM peak-hour. Furthermore, signal warrant analysis illustrates that the two unsignalized intersections (Sutro Street and Dean Street, Grand Street and Dean Street) do not meet the Caltrans' peak hour signal warrant requirement criteria. Therefore, the proposed townhouse project has no significant impact on the existing roadway network. (see attached Traffic Study, Table 7 [Existing + Project + Approval/Planned Project Developments Levels of Service], page 25) for collected numbers of the intersection studies.

CONCLUSION

During the public hearing, the project architect acknowledged the need to increase tree planting along the interior private street system. He indicated that by consolidating the paths to each pair of entries, the planting areas could be increased from 2 feet to 4 feet to improve and soften the street appearance.

Two members of the public spoke on the matter. One citizen, who lives on the property, requested that he be allowed a few extra days by the owner before being evicted since he has not found replacement housing yet. Another citizen indicated his support for the project and stated that the development would benefit the downtown area.

One commissioner, who voiced non-support for the project, variances and waivers, believed the architecture to be bland and expressed concern with the unknown levels of hazardous materials on site that need further review. While the applicant's consultant performed a site analysis and subsurface investigation and found only minor levels of contamination and had recommended that no further investigation be done, the State office of the Department of Toxic Substance Control has told City staff that there is insufficient information to make any conclusions as to whether the site has significant contamination or whether the site poses a significant health threat to future residences. It is very possible that additional testing will be required. The Conditions of Approval include the requirement that the applicant must obtain an Environmental and Health

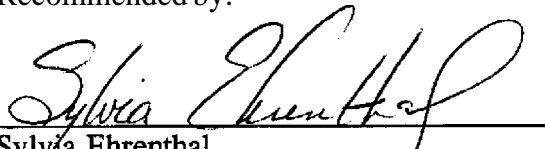
Based Clearance from the State Department of Toxic Substance Control prior to issuance of grading or building permits. Furthermore, the conditions require that a qualified professional be on-site during the demolition, grading and construction phases to determine if any additional contamination is present. Any contamination found on the site during construction would cease further work until the site is clear of the contamination.

Prepared by:



Sheldon R. McClellan
Senior Planner

Recommended by:



Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:

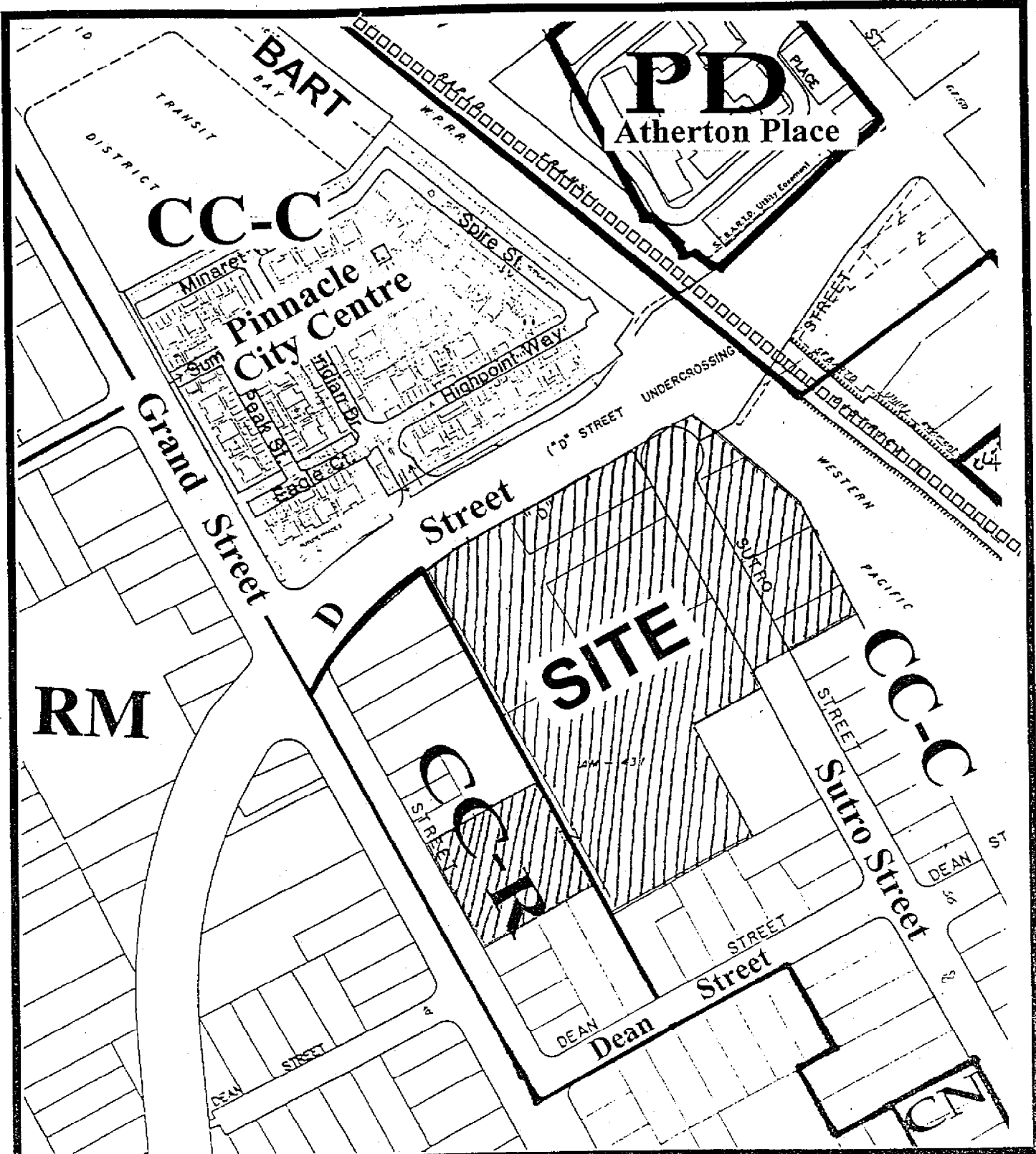


Jesús Armas, City Manager

Attachments: Exhibit A – Area Map
Exhibit B – Findings for Approval
Exhibit C – Conditions of Approval
Exhibit D – Revised Mitigated Negative Declaration
Exhibit E – Vacation of Portion of Sutro Street Map
Exhibit F – Draft Planning Commission Minutes and Staff Report,
dated June 29, 2000

Project Plans
Draft Resolution

7.13.00



AREA/ZONING MAP •

Use Permit/Site Plan Review/Variance 99-I 30-I 6
 DeNova Homes, Inc. (Applicant)
 Grand, D & Sutro Streets

**FINDINGS FOR APPROVAL
TENTATIVE TRACT MAP 7191**

Grand Street and **Sutro** Street

- A. That **approval** of Tentative Tract Map 7191, as conditioned, will have no significant impact on the environment, cumulative or otherwise. The project reflects the City's independent judgement, and that a Negative Declaration was prepared for the project in conformance with the provisions of CEQA;
- B. The tentative tract map and the proposed site plan substantially conform to the State Subdivision Map Act, the City's Subdivision Regulations, and the General Policies Plan.
- C. The site is physically suitable for the proposed type of development.
- D. The design of the subdivision and the proposed improvements will **not** cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- E. The design of the subdivision and the proposed improvements will **not** cause serious health problems.
- F. The design of the subdivision and the proposed improvements are in conformance with the conditions of approval and will not **conflict** with easements for access through, or use of, property within the subdivision.
- G. Existing and proposed streets and utilities are adequate to serve the project.
- H. None of the findings set forth in Section 64474 of the Subdivision Map Act have been made, and the approval of the tentative tract map is granted subject to the recommended conditions of approval.

FINDINGS FOR APPROVAL

Use Permit, Site Plan Review & Variance 99-130-16

Request to construct 161 multi-family dwelling units within 30 three-story buildings on 6.7 acres.

The property is located on the east side of Grand Street, approximately 295 feet south of D Street; with additional frontage (approximately 485 feet/no vehicular access) on the south side of D Street west of the railroad grade separation; and with approximately 30 feet of frontage along the west side of Sutro Street at its proposed terminus after vacation of the north end of the street.

Use Permit

- A. The approval of Use Permit Application No. 99-130-16, as conditioned, will have no significant impact on the environment, cumulative or otherwise, the project reflects the City's independent judgement, and that a Negative Declaration was prepared for the project in conformance with the provisions of CEQA. Mitigation measures are included which provide for sound attenuation for the private open space along the frontage streets and the railroad and **BART/railroad** tracks;
- B. The proposed housing development is desirable for the public convenience or welfare in that it provides ownership housing close to the downtown **core** and the BART station where public transportation is available;
- C. The proposed housing development will not impair the character and integrity of the zoning district and surrounding area since the applicant proposes ownership housing with a project design that reflects an architectural style that blends in well with surrounding residences and elements that are typical to both older or newer housing units in the area;
- D. The proposed residential project will not be detrimental to the public health, safety, or general welfare in that the layout of the units are done with ample setback to provide light and air to all dwellings and that the arrangement provides for pedestrian and vehicular access to each unit **from** the proposed private street; and
- E. The proposed use is in harmony with applicable City policies and the intent and purposes of the zoning district involved which encourages residential or commercial development in the area surrounding the BART station and that new moderate and upper income residential development in and around the downtown is desirable to support retail uses and cultural activities and to maintain a lively downtown evenings and weekends.

Site Plan Review

- F. The development of the site with 161 residential units is compatible with on-site and surrounding structures and uses in that the buildings are arranged with light and air between them and that each unit functions to provide ample ingress and egress and access to the garages and other parking areas and that the development is designed to be an attractive addition to the City;
- G. The housing project has been designed to take into consideration the physical and environmental constraints of the property by placement of the units to oriented to the street frontages and along the railroad tracks and to provide good pedestrian and vehicular circulation through the property;
- H. The housing project complies with the intent of City development policies and regulations in that the project meets minimum standards for open space, parking, density, building setbacks, etc. except where variances have been requested; and
- I. The housing project will be operated in a manner determined to be acceptable and compatible with surrounding development in that each unit will have required covered parking as well as visitor spaces and that the street design provides for emergency response, garbage service, and mail delivery.

Variances

To allow one townhouse in Building VIII to within 11' - 6" of the rear property line where a 15-foot rear yard setback is required.

- J. There are special circumstances applicable to the property in that the site is large and very irregular in shape with several street frontages and that provision of an internal private street system to serve the row houses requires some flexibility in the layout and that the reduction in setback should be considered minor since it is only for 1 of the 161 units.
- K. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity ~~under~~ the same zoning classifications in that the separation of the proposed building and the existing single family residence on the adjacent property is 40 feet. **This** is the same separation development standard required in residential zoning; and
- L. **The** variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classification in which the property is situated in that neighboring properties have 40 feet or less between adjacent residential buildings.

Seven townhouse in Building XII to within 13' – 2" of the rear property line where a 15-foot rear yard setback is required.

- M. There are special circumstances applicable to the property in that the site is large and very irregular in shape with several street frontages and that provision of an internal private street system to serve the row houses requires some flexibility in the layout and that the reduction in setback should be considered minor since it is only for 7 of the 161 units.
- N. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classifications in that there is a 24-foot separation between the rear of the proposed building and the existing single family residence. The required side yard set back for the single family residence is 5 feet. However, this property has an 11-foot side yard set back allowing ample distance between structures;
- O. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classification in which the property is situated in that neighboring properties have side yard set backs of less than 10 feet.

To allow the garage width of one of two parking spaces in the townhouse model types A and B to be 10' – 4" wide and one of two parking stall widths within the garage of the D Model type to be 10 feet wide where a width of 11 feet is required.

- P. There are special circumstances applicable to the property in that the site is large and very irregular in shape with several street frontages and that provision of an internal private street system to serve the row houses requires some flexibility in the layout and that the reduction in setback should be considered minor since it is only for 10 of the 161 units.
- Q. There are special circumstances applicable to the property in that the project is on the edge of the downtown core and the project is designed as ownership housing where the City has granted other like projects such as Atherton Place and Pinnacle City Centre to have a garage width less than the required 11 feet and that the proposed variance is very minor in that the departure is for only one of the two spaces within the garage and it does not affect the entry into the vehicle;
- R. Strict application of the Zoning Ordinance and Off-Street Parking Regulations would deprive the applicant of the property the same privileges enjoyed by other property in the vicinity under the same zoning classification since variances for the width of garages were approved for other downtown housing projects; and
- S. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classifications in which the property is situated since other variances for the width of garages were approved for other downtown housing projects.

DUE TO THE LENGTH OF EXHIBITS “C,” “D,” AND “E,” THEY ARE NOT AVAILABLE FOR WEBSITE VIEWING. THE AGENDA REPORT IN ITS ENTIRETY IS AVAILABLE FOR REVIEW IN THE CITY CLERK’S OFFICE AND AT THE MAIN LIBRARY.

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7/13/00

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION CERTIFYING THAT THE MITIGATED
NEGATIVE DECLARATION FOR VESTING TENTATIVE
MAP 7191 HAS BEEN COMPLETED IN COMPLIANCE
WITH THE CALIFORNIA ENVIRONMENTAL QUALITY
ACT (CEQA) AND APPROVING THE VESTING
TENTATIVE MAP FOR TRACT 7191, USE PERMIT AND
SITE PLAN REVIEW APPLICATION AND VARIANCE AND
WAIVER APPLICATION NO. 99-130-16

WHEREAS, there has been presented to the City Council of the City of Hayward a Vesting Tentative Map for Tract 7191 to subdivide 8 parcels totaling 6.7 acres into 161 townhouses and 1 common area, located *on* the east side of Grand Street, the south side of "D" Street, and the west side of Sutro Street, and in connection therewith a request to vacate a portion of Sutro Street and grant variances and waivers to allow minor encroachment into the side or rear yard setbacks in order to improve the project by providing additional landscaping area at the front of the buildings and to lessen the width of one of the two garage parking spaces within each unit; and

WHEREAS, a revised mitigated negative declaration has been prepared and processed for this subdivision in accordance with City and state CEQA guidelines; and

WHEREAS, the Planning Commission considered the matter at its June 29, 2000, meeting and its action thereon is on file in the office of the City Clerk and is hereby referred to for further particulars; and

WHEREAS, the City Council of the City of Hayward hereby finds and determines that the City Council has independently reviewed and considered the information contained in the initial study upon which the negative declaration is based, certifies that the revised mitigated negative declaration has been completed in compliance with the requirements of the California Environmental Quality Act, and **finds** that the revised mitigated negative declaration reflects the independent judgment of the City of Hayward; and

NOW, THEREFORE, BE IT RESOLVED that the Council hereby adopts the findings set forth in the staff report dated July 18, 2000, and attached hereto as Exhibit "A," and hereby approves the Vesting Tentative Map Tract 7191, the Use Permit, Site Plan Review and Variance Application No. 99-130-16 and Waiver, subject to the conditions of approval attached hereto as Exhibit "B."

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that, based on the findings noted above, that the revised Mitigated Negative Declaration is hereby approved.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2000

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

me 7/13/00

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION SUMMARILY VACATING A PORTION OF
SUTRO STREET NO LONGER REQUIRED FOR PUBLIC
PURPOSES

WHEREAS, the City Council has been asked to vacate a portion of Sutro Street, located between 'D' Street and Dean Street, as more particularly described in Exhibit "A", which has heretofore been dedicated to public purpose by deed, usage or otherwise, to enable development of a residential subdivision by **Denova** Homes, Inc. ("Applicant"); and

WHEREAS, the vacation of said portion of Sutro Street is being made pursuant to Section 8320 et seq. of the California Streets and Highways Code; and

WHEREAS, the Planning Commission has determined that the vacation is consistent with the General Policies Plan of the City of Hayward; and

WHEREAS, the Applicant, on behalf of a unified group of owners, has filed and the City Council has approved, by Resolution No. _____ dated July 18, **2000**, a vesting tentative map for Tract 7191 (the "Project" site), which encompasses the portion of Sutro Street being vacated and the vacation is necessitated by the proposed development of the Project site with 161 townhouses and 1 common area; and

WHEREAS, the portion of Sutro Street being vacated lies within the Project site and does not continue through the Project Site or end touching **property** of another; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward **finds** from all evidence submitted that:

1. The portion of Sutro Street identified in Exhibit "A" hereto is unnecessary for present or prospective public purposes;
2. The vacation is summarily made pursuant to the authority vested in the City Council under Section 8334 of the California Streets and Highways Code. Summary vacation is appropriate based on the fact that the portion of Sutro Street being vacated lies within the property several owners who have joined together as a single Applicant to pursue the development of the Project site and does not continue through the proposed subdivision or end touching the property of another;

3. Public convenience and necessity require that the City not reserve and except from the vacation any easement or right necessary to maintain, operate, replace, remove, or renew the public utility facilities in use.

THEREFORE, IT IS HEREBY ORDERED by the City Council that the certain portion of Sutro Street described in Exhibit "A" and the same is hereby abandoned.

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to cause a certified copy of this resolution to be recorded in the **office** of the Alameda County Recorder.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2000

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward